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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 IN RE FACEBOOK BIOMETRIC  
13 INFORMATION PRIVACY LITIGATION

14  
15 THIS DOCUMENT RELATES TO:  
16 ALL ACTIONS

17 \_\_\_\_\_  
18 FREDERICK WILLIAM GULLEN, on behalf  
of himself and all others similarly situated,

19 Plaintiff,

20 v.

21 FACEBOOK, INC.,

22 Defendant.  
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Master Docket No.: 3:15-CV-03747-JD

**DEFENDANT FACEBOOK, INC.'S  
ADMINISTRATIVE MOTION FOR  
LEAVE TO FILE SUPPLEMENTARY  
MATERIAL UNDER SEAL**

Hon. James Donato

*[Declaration and Proposed Order filed  
concurrently herewith]*

Case No. 3:16-cv-00937-JD

Pursuant to Civil Local Rule 7-3(d) and 7-11, defendant Facebook, Inc. (“Facebook”) respectfully submits this administrative motion for leave to file supplementary material under seal (“Administrative Motion”). Facebook also hereby submits the declaration of John Nadolenco in Support of Facebook’s Administrative Motion (“Nadolenco Declaration”) and a proposed order granting the Administrative Motion.

Facebook respectfully seeks leave to submit a short letter, attached to the Nadolenco Declaration as Exhibit 1, to clarify a statement that Facebook’s counsel made at the November 30, 2017 hearing on Facebook’s renewed motion to dismiss for lack of standing and to apprise the Court of additional facts that are pertinent to Facebook’s motion that recently emerged during the December 7, 2017 deposition of plaintiff Nimesh Patel.

In addition, pursuant to Civil Local Rule 79-5(e), the Stipulated Protective Order in this action (Dkt. 88),<sup>1</sup> and this Court’s Standing Order for Civil Cases, Facebook respectfully seeks to file under seal: (1) Exhibit E to Facebook’s proposed letter; and (2) narrowly redacted portions of the proposed letter (at page 2) that directly quote from Exhibit E. Nadolenco Decl. ¶ 4. Exhibit E is an excerpt from the December 7, 2017 deposition transcript of plaintiff Nimesh Patel. *Id.* ¶ 5. Pursuant to the Stipulated Protective Order in this action (Dkt. 88), Mr. Patel’s December 7, 2017 deposition transcript is presently designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pending specific confidentiality designations by plaintiffs’ counsel. *Id.* ¶ 5. Facebook has also redacted limited portions of its Proposed Letter that quote directly from the December 7, 2017 deposition transcript of plaintiff Nimesh Patel, in order to maintain the confidentiality of Mr. Patel’s deposition. *Id.* ¶ 6 Facebook takes no position on whether the designated materials satisfy the requirements for sealing.

Facebook respectfully requests that the Court permit Facebook to file the proposed letter and exhibits to clarify and supplement the record on Facebook’s renewed motion to dismiss for lack of standing.

<sup>1</sup> Docket references are to *In re Biometric Information Privacy Litig.*, No. 3:15-cv-03747-JD.

1 Dated: December 13, 2017

MAYER BROWN LLP

2 By: /s/ John Nadolenco  
3 John Nadolenco  
4 Lauren R. Goldman

*Counsel for Defendant Facebook, Inc.*